

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MARSHALL G. HILES,
Plaintiff,

Case No. 1:12-cv-673
Weber, J.
Litkovitz, M.J.

vs.

ARMY REVIEW BOARD
AGENCY, et al.,
Defendants.

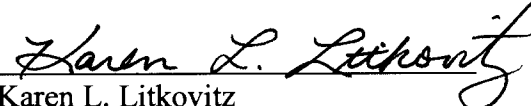
**REPORT AND
RECOMMENDATION**

This matter is before the Court on plaintiff's "Motion to amend and request for summary judgment" (Doc. 54), the federal defendants' response in opposition to plaintiff's motion (Doc. 56), and plaintiff's reply memorandum in support of his motion (Doc. 57). For the reasons stated in the undersigned's Order and Report and Recommendation issued on March 25, 2013 (Doc. 38), the proposed amendment would not cure the deficiencies in the original complaint and would therefore be futile. Accordingly, plaintiff's motion to amend the complaint and for summary judgment on the amended complaint should be denied. *See Coe v. Bell*, 161 F.3d 320, 341-42 (6th Cir. 1998) (factors relevant to the Court's decision regarding leave to amend include "[u]ndue delay in filing, lack of notice to the opposing party, bad faith by the moving party, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party, and futility of amendment") (quoting *Brooks v. Celeste*, 39 F.3d 125, 130 (6th Cir. 1994)).

IT IS THEREFORE RECOMMENDED THAT:

Plaintiff's "Motion to amend and request for summary judgment" (Doc. 54) be **DENIED**.

Date: 8/12/14


Karen L. Litkovitz
United States Magistrate Judge

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